

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

EVAN LAMBERT,

Plaintiff,

v.

COLUMBIANA COUNTY, CITY OF
EAST PALESTINE, JOHN C.
HARRIS, JR., BRIAN
MCLAUGHLIN, JENNIFER
TUCKER, JAMES BROWN, III, AND
DANIEL HAUETER, *in their personal
capacities.*

Defendants.

CASE NO. 4:23-cv-02200

CORRECTED MOTION TO DROP CERTAIN DEFENDANTS

Pursuant to Federal Rule of Civil Procedure 21 and in compliance with the November 21, 2023 Offer of Judgment Pursuant to Federal Rule of Civil Procedure 68 from Defendants Columbiana County, City of East Palestine, Brian McLaughlin, Jennifer Tucker, James Brown III, and Daniel Haueter, which was accepted by Plaintiff Evan Lambert on December 1, 2023, Plaintiff hereby moves to dismiss with prejudice his claims in the above-captioned action against the following defendants: Brian McLaughlin, Jennifer Tucker, James Brown III, and Daniel Haueter. With the exception of Defendant John C. Harris, Jr., all parties approve this Motion and consent to the relief it seeks. Counsel for Defendant Harris has stated he does not approve this Motion.

Federal Rule of Civil Procedure 21 provides that, “on motion or on its own, the court may at any time, on just terms, add or drop a party.” Fed. R. Civ. P. 21. Under Sixth Circuit precedent, Rule 21 is the appropriate procedural vehicle for Plaintiff to stipulate the dismissal of his claims against some—but not all—Defendants in the above-captioned matter. *See Philip Carey Manufacturing Company v. Taylor*, 286 F.2d 782, 785 (6th Cir. 1961). The Complaint was filed on November 13, 2023. *See* ECF No. 1. On November 29, 2023, Defendants City of East Palestine, James Brown III, and Daniel Haueter filed an Answer to the Complaint. *See* ECF No. 5. As of the filing of this Motion, no other Defendant has filed a response to the Complaint. As noted above, pursuant to the Offer of Judgment accepted by Plaintiff on November 21, 2023, Plaintiff has agreed to stipulate to the dismissal of his claims with prejudice against Brian McLaughlin, Jennifer Tucker, James Brown III, and Daniel Haueter. No non-moving party will be prejudiced if those individual Defendants are dropped from the above-captioned case at this stage. *See Mullins v. C.R. Bard, Inc.*, No. 0:19-CV-85-JMH-EBA, 2020 WL 4288400, at *2 (E.D. Ky. July 27, 2020) (citing *Grover v. Eli Lilly & Co.*, 33 F.3d 716, 718 (6th Cir. 1994)) (explaining that evaluation of potential prejudice under Rule 21 “overlaps with Rule 41 standards” and considers “(1) defendant’s effort and expense of preparation for trial; (2) excessive delay and lack of diligence

on plaintiff's part in prosecuting the case; (3) insufficient explanation for the need for dismissal; and (4) whether a motion for summary judgment is pending").

According, Plaintiff respectfully requests that the Court enter the accompanying Proposed Order dismissing individual defendants Brian McLaughlin, Jennifer Tucker, James Brown III, and Daniel Haueter.

Dated: January 11, 2024

Respectfully submitted,

/s/ Katie Townsend

Katie Townsend

REPORTERS COMMITTEE

FOR FREEDOM OF THE PRESS

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CERTIFICATE OF SERVICE

I hereby certify that, on January 11, 2024, a copy of the foregoing was electronically filed with the Clerk of the Court using CM/ECF, which will automatically send notice of such filing to all counsel of record.

Dated: January 11, 2024

/s/ Katie Townsend
Katie Townsend
Counsel for Plaintiffs